

Freedom of Information request 362/2013

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Information request

I am looking for resources that might explain why the caveat at regulation 7(1)(c)(ii) of the Social Security & Child Support (Decisions and Appeals) Regulations 1999 was imposed.

It was included by way of amendment by the SS&CS(D&A) Amendment No 2 Regulations 1999 SI 1999/1623.

The rationale for making that amendment is my interest and I would be grateful to receive any minutes of meetings, working group reports, statements to or by the Secretary of State, his ministers and the like that led to the decision to make that change.

DWP response

First, just to clarify that the regulation in question is 7(2)(c)(ii).

The amendment was made to put it beyond doubt that where a claimant's condition had improved, the Secretary of State could only supersede a decision in relation to attendance allowance, disability living allowance, severe disablement allowance, industrial injuries benefit and incapacity benefit retrospectively, where it could be proven that the claimant was clearly at fault. In other words, the change in the claimant's condition was such that he would be aware of it and would know to report it to the Secretary of State. For example, where a claimant underwent an operation which brought about an immediate improvement.

This would distinguish those changes which it was accepted claimants would struggle to identify because they were gradual and no one date could be pinpointed which required immediate notification.

The change ensured that claimants would not be faced with overpayments which would be recoverable caused by a lack of medical knowledge.

To comply fully with your request would entail a trawl of all departmental records from the last fourteen years to find details of meetings, working group reports, statements by the Secretary of state and his Ministers of that time and all information we hold that could relate to your enquiry. We estimate that the cost of complying with your request would exceed the appropriate limit.

The appropriate limit has been specified in regulations and for central Government it is set at £600. This represents the estimated cost of one person spending 3½ working days in determining whether the Department holds the information, and locating, retrieving and extracting the information. Under section 12 of the Freedom of Information Act the Department is not obliged to comply with your request and will not be processing your request further. However, I can inform you that preliminary checks made in order to prepare this response indicate it would be highly unlikely the Department still holds any such records.